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I. OVERVIEW

1. Summary of the New York State Coastal Management Program

This document constitutes a framework for government decision-making which affects New York's coastal area. It provides statements of policy to which Federal and State agencies must adhere and also serves as a reference for local government action in the coastal area. In addition, the document complies with Federal regulations for submission of state coastal management programs set forth pursuant to the Coastal Zone Management Act of 1972, as amended, and constitutes the environmental impact statement for the State Program.

New York is unique among coastal states. It contains within its coastal boundary a great diversity of marine and freshwater areas divided into four distinct sectors: Long Island, a land mass fronting on the Atlantic Ocean; New York City, a major international port where the intensity of land and water uses is the greatest in the State; the Hudson River Valley, an ecologically and historically important corridor which extends 150 miles from New York City into upstate New York; and the Great Lakes - St. Lawrence River region, a vast freshwater, non-tidal coastal system.

While New York's coastal area is extensive and varied, a number of issues emerge as common to all sectors. The first and most obvious has been that, although New York has numerous laws, programs, and regulations to manage coastal resources and activities, State agencies were not fully coordinating their activities with each other and as a result, inconsistent decisions about the use of coastal resources were made.

The Coastal Management Program has provided a means for improving this situation by describing in this document the forty-four coastal policies with which all State agency actions must be consistent. Generally, the policies fall under three headings: promotion of beneficial use of coastal resources; prevention of their impairment; and management of major activities substantially affecting numerous resources. The criteria embodied in these policies require all agencies to take into account the interrelationships that exist or should exist in the coastal area.

The main instruments for implementing the forty-four policies are a number of State regulatory and management authorities assigned to the New York State Department of State, the Department of Environmental Conservation, the Department of Energy, the Public Service Commission, and the Office of Parks, Recreation and Historic Preservation. Among these authorities is the recently enacted Waterfront Revitalization and Coastal Resources Act (Executive Law, Article 42) which forms the basis for coordinating all State actions affecting the coastal area. Article 42 requires that the State Environmental Quality Review Act (Environmental Conservation Law, Article 8) be amended to assure adequate consideration of coastal policies and to provide that the Secretary of State review agency actions affecting achievement of coastal policies.

Nine other issues were found to affect all sectors of New York's coastal area. The Waterfront Revitalization and Coastal Resources Act gave the Coastal Management Program authority to advocate specific actions to meet or cope with these issues. The specific actions which the Coastal Management Program advocates include: promoting waterfront revitalization; promoting water dependent uses; protecting fish and wildlife habitats; protecting and enhancing scenic areas; protecting and enhancing historic areas; protecting farmlands; protecting and enhancing small harbors; protecting and enhancing public access; providing research, data, and information for participation of government agencies and citizens concerned with the State's coastal area; and coping with erosion and flooding hazards. The last action necessitated passage of the Coastal Erosion Hazards Area Act.

The Coastal Management Program, in its dual role of coordinator and advocate, also seeks the voluntary assistance of local governments to help further its goals. Coastal communities are encouraged to participate under the Waterfront Revitalization and Coastal Resources Act which provides the means and incentives for municipalities to prepare and implement local waterfront revitalization programs. The Department of State will provide financial and technical assistance, as well as guidelines for developing local programs. A community may receive one twelve-month grant of up to 50% of its costs to develop a local program.

New York City has already been developing a local program. The proposed program can be found in Volume III of this document.

When a local waterfront revitalization program has been approved by the Secretary of State, the local government will be eligible to receive additional funding for pre-construction activities related to projects recommended in the program. State consistency applies automatically to any approved local program. Furthermore, an approved local program may be incorporated into the State Coastal Management Program; federal consistency provisions of the Program would then apply.

2. Changes the Program Will Make

The New York Coastal Management Program, in addition to furthering national coastal management goals, will cause changes in the way existing environmental and economic development activities of State agencies affect the use of coastal resources, and it will offer local governments and private interests the means to focus on the waterfront and bring about solid improvements. More specifically:

Forty-four coastal management policies will apply to State agency decisions and voluntarily adopted local government waterfront revitalization programs. Twenty-nine of these policies are new or have significantly increased enforceability as a result of the State's Waterfront Revitalization and Coastal Resources Act. Fifteen of the policies are from such existing State laws as the Tidal and Freshwater Wetlands Acts.

Development in areas subject to erosion and on beaches and dunes will be set back from the shorelines a distance sufficient to minimize damage from erosion.

All activities involving a State permit, funding or other action will be undertaken in a manner consistent with the coastal policies.

Protection of significant fish and wildlife habitats, significant coastal scenic areas, and important agricultural lands will be increased.

The Department of State and the Office of Business Permits must consolidate, simplify, expedite or otherwise improve existing permit procedures which affect development in the coastal area.

Non-structural measures for erosion control will be promoted.

Land development will be encouraged to locate in areas where infrastructure and public services are adequate.

The Department of State, Urban Development Corporation, Environmental Facilities Corporation, Departments of Commerce, Environmental Conservation, Transportation, and others must seek new and alternative means of effectuating waterfront revitalization.

State agencies and local governments with approved waterfront revitalization programs must promote and protect the traditional character and uses of small harbors.

Within the existing major ports, State agencies and local governments with approved waterfront revitalization programs must site land uses and development which are essential to or in support of waterborne transportation of cargo and people.

Enforcement capabilities will be increased for existing State programs which protect natural coastal resources, and for those existing State programs which promote proper development of coastal resources.

Federal agency actions will be consistent with the coastal policies.

State and Federal agency actions will also be consistent with approved local waterfront revitalization programs.

Financial assistance will be provided to local governments to prepare and implement local ordinances for erosion hazard areas and waterfront revitalization programs.

-- State and local agencies will be provided technical assistance in solving coastal problems.

3. The Federal Coastal Zone Management Act

In response to intense pressure, and because of the importance of coastal areas of the United States, Congress passed the Coastal Zone Management Act of 1972 (CZMA) (P.L. 92-583). The Act authorizes a Federal grant-in-aid program to be administered by the Secretary of Commerce, who in turn delegated this responsibility to the National Oceanic and Atmospheric Administration's (NOAA) Assistant Administrator for Coastal Zone Management, who heads the Office of Coastal Zone Management (OCZM).

The CZMA was substantively amended on July 16, 1976 (P.L. 94-370) and on October 1, 1980 (P.L. 96-464). The Act and its amendments affirm a national interest in the effective protection and careful development of the coastal zone, by providing assistance and encouragement to coastal states (and U.S. territories) to voluntarily develop and implement management programs for their coastal areas. Financial assistance grants under Sections 305 for program development and 306 for program implementation were authorized by the CZMA to provide coastal states and territories with the means for achieving these objectives.

Broad guidelines and the basic requirements of the CZMA provide the necessary direction to states for developing their coastal management programs. The program development and approval provisions are contained in 15 CFR Part 923, revised and published March 28, 1979, in the Federal Register. In summary, the requirements for program approval are that a state develop a management program that:

1. identifies and evaluates those coastal resources recognized in the Act that require management or protection by the state or territorial government;
2. re-examines existing policies or develops new policies to manage these resources. These policies must be specific, comprehensive, and enforceable, and must provide an adequate degree of predictability as to how coastal resources will be managed;
3. determines specific uses and special geographic areas that are to be subject to the management program, based on the nature of identified coastal concerns. Uses and areas to be subject to management should be based on resource capability and suitability analyses, socio-economic considerations and public preferences;
4. identifies the inland and seaward areas subject to the management program;
5. provides for the consideration of the national interest in the planning for and siting of facilities that meet more than local requirements; and
6. includes sufficient legal authorities and organizational arrangements to implement the program and to ensure conformance to it.

In arriving at these substantive aspects of the management program, states are obliged to follow an open process which involves providing information to and considering the interests of, the general public, special interest groups, local governments, and regional, state, interstate, and federal agencies.

Section 303 of the CZMA provides guidance of specific national objectives that warrant full consideration during the implementation of approved state coastal management programs.

Section 305 of the CZMA authorizes a maximum of four annual grants to develop a coastal management program. After developing a management program, the state is then eligible for annual grants under Section 306 to implement its management program. If a program has deficiencies which need to be remedied or has not received approval by the time Section 305 program development grants have expired, a state may continue development of a Federally approvable coastal management program using entirely state funding. However, new Federal funding assistance for program development is no longer authorized by the 1980 CZMA amendments.

Section 306 requires states to devote increasing portions (up to 30 percent) of their grant funds to activities leading to significant improvements in achieving national coastal management objectives. Section 306(i) also authorizes the award of grants for preservation of important natural areas, public access and urban development. Section 306(A) encourages states to inventory coastal resources of national significance and develop standards to protect them.

Section 307 of the Act stipulates that Federal agency activities shall be consistent, to the ~~maximum extent practicable~~, with approved state management programs. Section 307 further provides for mediation by the Secretary of Commerce when a serious disagreement arises between a Federal agency and a coastal state with respect to a federal consistency issue.

Section 308 of the CZMA contains provisions for grants and loans to coastal states to enable them to plan for and respond to onshore impacts resulting from coastal energy activities including grants to mitigate the coastal impacts of coal transportation and alternative ocean energy activities. To be eligible for assistance under Section 308, coastal states must be receiving Section 305 or 306 grants, or, in the Secretary's view, be developing a management program consistent with the policies and objectives contained in Section 303 of the CZMA.

Section 309 allows the Secretary to make grants to states to coordinate, study, plan, and implement interstate coastal management programs. ...

Section 310 allows the Secretary to conduct a program of research, study, and training to support state management programs. The Secretary may also make grants to states to carry out research studies and training required to support their programs.

Section 312 directs OCZM to evaluate the performance of state coastal management programs on a continuing basis.

Section 315 authorizes grants to states to acquire lands for access to beaches and other public coastal areas of environmental, recreational, historical, aesthetic, ecological, or cultural value, and for the acquisition of islands for preservation, in addition to the estuarine sanctuary program to preserve a representative series of undisturbed estuarine areas for long-term scientific and educational purposes.

4. CROSS REFERENCE TO PROGRAM REQUIREMENTS (306)

How the New York Coastal Program Meets the Requirements of the Coastal Zone Management Act

Requirements	Regulations	New York Coastal Program
Sec. 306(a), which includes the requirements of Sec. 305:		
305(b)(1): Boundaries.....	923.21-923.34	Part II, Section 3
305(b)(2): Uses subject to management.....	923.11	Part II, Sections 4,6,8
305(b)(3): Areas of particular concern.....	923.21-923.23	Part II, Section 8
305(b)(4): Means of control.....	923.41	Part II, Sections 4,6,7,8; Appen.A,E,F
305(b)(5): Guidelines on priorities of uses.....	923.21	Part II, Sections 6,8
305(b)(6): Organizational structure.....	923.46	Part II, Section 4
305(b)(7): Shorefront planning process.....	923.24	Part II, Section 7
305(b)(8): Energy facility planning process.....	923.13	Part II, Section 7
305(b)(9): Erosion planning process.....	923.25	Part II, Section 7
Sec. 306(c), which includes:		
306(c)(1): Notice; full participation; consistent with Sec. 303.....	923.3, 923.51 923.55, 923.58	Part II, Section 9; Part VI; Appendix D
306(c)(2)(A): Plan coordination.....	923.56	Appendix C
306(c)(2)(B): Continuing consultation mechanisms.....	923.57	Part II, Section 4
306(c)(3): Public hearings.....	923.58	Part II, Sections 1,9
*306(c)(4): Gubernatorial review and approval.....	923.48	
306(c)(5): Designation of recipient agency.....	923.47	Part II, Section 4
306(c)(6): Organization.....	923.46	Part II, Section 4
306(c)(7): Authorities.....	923.41	Part II, Sections 4,6; Appendix A,E,F
306(c)(8): Adequate consideration of national interest.....	923.52	Part II, Section 9
306(c)(9): Areas for preservation/restoration.....	923.22	Part II, Section 8
Sec. 306(d), which includes:		
306(d)(1): Administer regulation, control development; resolve conflicts.....	923.41	Part II, Section 4
306(d)(2): Powers of acquisition, if necessary.....	923.41	Part II, Sections 4,6; Appendix A,F
Sec. 306(e), which includes:		
306(e)(1): Technique of control.....	923.42-923.44	Part II, Sections 4,5,8; Appendix A
306(e)(2): Uses of regional benefit.....	923.12	Part II, Section 9
Sec. 307, which includes:		
307(b): Adequate consideration of federal agency views.....	923.51	Part VI; Part IX; Appendix C
307(f): Incorporation of air and water quality requirements...	923.45	Part II, Section 6

* SEQOR requires a minimum ten day review after notice of availability of FEIS prior to gubernatorial approval.